

Message Text

LIMITED OFFICIAL USE

PAGE 01 LONDON 17409 01 OF 02 121620Z

44

ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOTE-00 INR-07 NSAE-00 FAA-00 PM-04 H-02 L-03 NSC-05

PA-01 PRS-01 SP-02 SS-15 USIA-06 OMB-01 TRSE-00 /069 W

----- 106935

P 121603Z NOV 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 6451

LIMITED OFFICIAL USE SECTION 01 OF 02 LONDON 17409

E.O. 11652: N/A

TAGS: EAIR

SUBJ: CIVAIR - US/EUROPE CHARTERS - TGC SUBSTITUTION
AND COMMINGLING ISSUES

REF: LONDON 17365

1. IN FIRST ROUND OF TALKS, FIRST WITH ECAC COLLECTIVELY AND THEN WITH CERTAIN ECAC MEMBERS INDIVIDUALLY, IT APPEARED THAT EUROPEAN CONCERNS REGARDING PRICING OF THE NEW U.S. CHARTER TYPES, OTCS AND SECS, COULD PROBABLY BE OVERCOME THROUGH PRICE SURVEILLANCE COUPLED WITH A CONSULTATION PROVISION. EVEN IF THIS PROVES TO BE THE CASE, HOWEVER, DIFFICULTIES WILL REMAIN WITH RESPECT TO THE UPLIFT RATIO, TGC SUBSTITUTIONS AND COMMINGLING. THE UPLIFT RATIO PROBLEM IS ADDRESSED IN REFTEL. THIS MESSAGE IS CONCERNED WITH THE LATTER TWO PROBLEM AREAS.

2. TGC SUBSTITUTIONS: BASICALLY THERE ARE TWO PROBLEMS ASSOCIATED WITH THE REVISED SUBSTITUTION PROVISIONS OF THE TGC RULE.

(A) FIRST, THE EUROPEANS ARE MIFFED BECAUSE THEY WERE NOT CONSULTED BEFORE THE CAB ADOPTED THE NEW SUBSTITUTION PROVISION, A PROVISION WHICH, IN EUROPEAN VIEW, SUBSTANTIALLY ALTERED THE BASIC ADVANCE CHARTER

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LONDON 17409 01 OF 02 121620Z

CONCEPT. MANY EUROPEAN AERONAUTICAL AUTHORITIES APPEAR

TO BELIEVE THAT THEIR EXISTING BILATERAL CHARTER AGREEMENTS WITH THE U.S., AGREEMENTS BASED ON ACCEPTANCE OF THE RULES OF ORIGIN CONCEPT, LOCK THEM INTO ACCEPTANCE OF ANY CHANGES TO U.S. CHARTER RULES COVERED BY THE AGREEMENT. THEY DID NOT LIKE THE SUBSTITUTION CHANGE (IN PART BECAUSE THE REASON FOR THE CHANGE WAS NEVER FULLY EXPLAINED TO THEM) AND THEY DID NOT LIKE THE WAY IN WHICH THE CHANGE WAS FORCED UPON THEM. THEIR RESENTMENT OVER THIS ISSUE AT LEAST PARTIALLY EXPLAINS THEIR PRESENT RELUCTANCE TO GO ALONG WITH THE RULES OF ORIGIN CONCEPT. WE CAN, OF COURSE, ARGUE THAT U.S. RULE CHANGES ARE IN OPEN PROCESS AND ANY GOVERNMENT IS FREE TO MAKE ITS VIEWS KNOWN DURING THIS PROCESS. WE SHOULD RECOGNIZE, HOWEVER, THAT AS A PRACTICAL MATTER, EUROPEAN GOVERNMENTS ARE NOT ACCUSTOMED TO OPERATING IN THIS WAY, MANY OF THEM DO NOT CLOSELY FOLLOW CAB PROCEEDINGS AND THAT, IN ANY EVENT, AS A PARTY TO AN INTERGOVERNMENTAL AGREEMENT WHICH MAY BE AFFECTED BY A RULE CHANGE, THEY FEEL, QUITE UNDERSTANDABLE THAT THEIR VIEWS SHOULD HAVE A STANDING SOMEWHAT DIFFERENT FROM THAT OF ANY OTHER MEMBER OF THE INTERESTED PUBLIC AND SHOULD BE PUT FORTH IN A DIFFERENT FORUM (CONSULTATIONS) PARTICULARLY WHEN IT INVOLVES THE QUESTION OF WHETHER THEY WOULD BE EXPECTED TO ACCEPT A PROPOSED RULE CHANGE. WE REALIZE THAT THIS IS AN ATTITUDE WHICH IS DIFFICULT FOR THE U.S. TO ACCOMMODATE WITHIN THE RULE-MAKING PROCESS BUT TO THE EXTENT THAT IT CANNOT BE ACCOMMODATED, WE SHOULD NOT BE SURPRISED BY EUROPEAN RESENTMENT TOWARD AND CONCERN ABOUT U.S. RULE CHANGES WHICH DO NOT TAKE INTO ACCOUNT EUROPEAN VIEWS.

(B) THE SECOND FEATURE OF THE TGC SUBSTITUTION PROVISION WHICH TROUBLES THE EUROPEANS IS THAT IT CONTAINS A FEATURE WHICH IS UNIQUE: NO CHARTERWORTHINESS CONDITIONS APPLY TO TGC SUBSTITUTED PASSENGERS. UNLIKE OTHER CHARTER PASSENGERS, THEY CAN BE TAKEN FROM MEMBERS OF THE GENERAL PUBLIC. FROM THE EUROPEAN VIEWPOINT, THIS IS A RADICAL DEPARTURE FROM A FUNDAMENTAL AND, PREVIOUSLY, UNIVERSALLY-ACCEPTED CHARTER CONCEPT. BECAUSE THE SUBSTITUTED PASSENGERS CAN BE TAKEN FROM THE GENERAL PUBLIC, THE EUROPEANS ARE UNDERSTANDABLY CONCERNED THAT THESE MAY BE PASSENGERS THAT MIGHT OTHERWISE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 LONDON 17409 01 OF 02 121620Z

HAVE TRAVELLED ON SCHEDULED SERVICES. THEY CAN APPRECIATE THAT SOME DEGREE OF SUBSTITUTION MAY BE ESSENTIAL TO MAKE TGCS VIABLE BUT IF THE SUBSTITUTION "WINDOW" IS OPEN 15 PERCENT AND IF THEN TGCS FLOURISH, THE SUBSTITUTION ELEMENT CARRIED MAY REPRESENT A SIZEABLE NUMBER OF PASSENGERS DIVERTED FROM SCHEDULED SERVICES. THEY QUESTION, THEREFORE, WHETHER THAT "WINDOW" SHOULD BE OPENED THAT WIDE OR A LESSER AMOUNT. THE U.S. HAS CONTENTED

THAT TGCS HAVE ACCOUNTED FOR SUCH A SMALL PERCENTAGE OF THE TOTAL CHARTERS FLOWN THAT THIS HAS BEEN AN INSIGNIFICANT PROBLEM AND WILL BE AN EVEN SMALLER PROBLEM IN THE FUTURE AS OTCQ DISPLACE TGCS. OUR CLAIM REGARDING THE FUTURE REMAINS TO BE PROVEN AND OUR ASSERTION REGARDING

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 LONDON 17409 02 OF 02 121618Z

44

ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 PM-04 H-02 L-03 NSC-05

PA-01 PRS-01 SP-02 SS-15 USIA-06 OMB-01 TRSE-00 /069 W

----- 106865

P 121603Z NOV 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 6452

LIMITED OFFICIAL USE SECTION 02 OF 02 LONDON 17409

PAST INSIGNIFICANCE HAS BEEN CONTESTED, AT LEAST IN THE UK WHERE BRITISH STATISTICS SHOW ENORMOUS TGC GROWTH WITH THIS CHARTER FORM ACCOUNTING FOR OVER 30 PERCENT OF THE TOTAL MARKET.

(C) ASSUMING BRITISH STATISTICS ARE ACCURATE AND TO THE EXTENT THAT TGCS HAVE GROWN IN OTHER MARKETS, IN OUR VIEW, THE EUROPEANS MAY HAVE A LEGITIMATE CONCERN, AT LEAST ONE THAT DESERVES TO BE ADDRESSED. THE ONLY WAY IT CAN BE ADDRESSED, IT SEEMS TO US, IF WE HOPE TO GET ANYWHERE WITH THE EUROPEANS ON THIS ISSUE, IS TO UNDERTAKE A CLOSE EXAMINATION OF RECENT DEVELOPMENTS IN TGCS AND AN ANALYSIS OF SUBSTITUTION INCLUDING THE EXTENT TO WHICH IT IS UTILIZED, THE TYPES OF PASSENGERS SUBSTITUTED, AND THE DEGREE TO WHICH SUBSTITUTION MAY HAVE BEEN MISUSED. IT COULD WELL BE THAT SUCH A STUDY WOULD COMPLETELY VINDICATE OUR TGC RULE AND IF SO IT

WOULD CERTAINLY STRENGTHEN OUR HAND IN TRYING TO ANSWER EUROPEAN CONCERNS. IF THE STUDY DOES NOT SO VINDICATE, HOWEVER, WE SHOULD BE PREPARED TO MEET THOSE CONCERNS IN A REASONABLE SPIRIT OF COMPROMISE.

3. COMMINGLING: THE BACKGROUND AND ISSUES INVOLVED IN THIS PROBLEM AREA ARE UNDERSTOOD AND WILL NOT BE RECITED HERE. THE ONLY POINT WE WOULD LIKE TO MAKE IS THAT LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LONDON 17409 02 OF 02 121618Z

ALTHOUGH THE EUROPEANS OBVIOUSLY HAVE NOT GONE AS FAR AS WE WOULD LIKE, NEVERTHELESS, GIVEN THEIR LONG-STANDING AND RATHER DEEPLY-FELT OPPOSITION TO COMMINGLING IN ANY FORM, THEIR OFFER TO ACCEPT THE COMMINGLING OF UP TO THREE CHARTER CATEGORIES ON THE SAME AIRCRAFT REPRESENTS A FAIRLY SIGNIFICANT COMPROMISE ON THEIR PART. PERHAPS THEY CAN BE PERSUADED TO GO EVEN FURTHER AND THAT IS WORTH A TRY PROVIDED IT DOES NOT INVOLVE ESTABLISHING WHAT MIGHT BE CONSIDERED AS UNDESIRABLE PRECEDENTS SUCH AS PRE-LISTINE OTHERWISE UNLISTED CHARTER TYPES. EVEN IF THEY DO NOT GO ANY FURTHER, HOWEVER, WE ARE OF THE VIEW THAT THEIR PRESENT OFFER ADEQUATELY MEETS OUR PRACTICAL NEEDS OF THE MOMENT.

RICHARDSON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, AIR SCHEDULES, SUPPLEMENTAL AIRLINES, AVIATION AGREEMENTS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 12 NOV 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: greeneet
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975LONDON17409
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750393-0973
From: LONDON
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751151/aaaabtbv.tel
Line Count: 197
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 LONDON 17365
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 01 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 JUL 2003 by ShawDG>; APPROVED <05 NOV 2003 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR - US/EUROPE CHARTERS - TGC SUBSTITUTION AND COMMINGLING ISSUES
TAGS: EAIR, US, XG, ECAC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006